

1 Julie B. Axelrod
2 California Bar. No. 250165
3 Immigration Reform Law Institute
4 25 Massachusetts Ave, NW, Suite 335
5 Washington, D.C. 20001
6 Telephone: (202) 232-5590
7 Fax: (202) 464-3590

8 Lesley Blackner
9 Admitted *Pro Hac Vice*
10 Florida Bar No. 654043
11 340 Royal Poinciana Way, Suite 317-377
12 Palm Beach, FL 33480
13 Telephone: (561) 659-5754

14 James P. Miller
15 California Bar No. 188266
16 Law Office of JP Miller Jr.
17 181 Rea Ave, Suite 101
18 El Cajon, CA 92020
19 Telephone: (619) 590-0383

20 **THE UNITED STATES DISTRICT COURT**
21 **SOUTHERN DISTRICT OF CALIFORNIA**

22 WHITEWATER DRAW NATURAL,
23 RESOURCE CONSERVATION
24 DISTRICT *et al*,

25 Plaintiffs,

26 v.

27 ELAINE DUKE, *et al.*,

28 Defendants.

Case No. 3:16-cv-2583

**JOINT MOTION FOR SECOND
EXTENSION OF TIME FOR
PLAINTIFFS TO AMEND
COMPLAINT UNDER RULE
15(a)(1)(B)**

1 On October 18, 2017, the Court granted Plaintiffs' request for an extension
2 of time to amend their Complaint in response to Defendants' Motion to Dismiss
3 Complaint in Part for Lack of Jurisdiction and Failure to State a Claim. Plaintiffs'
4 Amended Complaint is now due Dec. 1, 2017. The parties have conferred and
5 respectfully request a further short, one-week extension, until Dec. 8, 2017, of the
6 deadline under Rule 15(a)(1)(B) for Plaintiffs to amend their Complaint in
7 response to Defendants' Motion. Parties have also agreed, and respectfully request,
8 that Defendants' response to Plaintiffs' Amended Complaint be due on January 26,
9 2018.
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13 In support of this motion, the parties state the following:
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15 1) Plaintiffs first filed their five-count Complaint on October 17, 2016,
16 covering 33 immigration-related actions taken by Defendants.
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18 Defendants asked Plaintiffs for two separate extensions "given the
19 breadth of the allegations," and a further extension, until May 30, 2017,
20 to pursue settlement negotiations.
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22 2) On May 30, 2017, Defendants asked for a stay of the deadline to file their
23 answer, on the ground that actions then being taken by the executive
24 branch would likely affect the claims in the case. The Court gave
25 Defendants until October 6, 2017, to file their answer, nearly a year after
26 Plaintiffs' filed their Complaint.
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- 1 3) Defendants filed a partial motion to dismiss Plaintiffs' Complaint on
2 October 6, 2017, addressing Counts I and III and most of the claims in
3 Count II, but not Counts IV and V and some of the claims in Count II.
4 Defendants offered numerous legal defenses to Count II, including that
5 eleven of Plaintiffs' claims were moot due to actions of the executive
6 branch taken since Plaintiffs filed their Complaint. Defendants also allege
7 that some of Plaintiffs' challenges are barred by the statute of limitations,
8 not final agency actions, or precluded by statute. *See* Docket #32,
9 Defendants' Exhibit 1.
10 4) Plaintiffs asked for an extension until December 1, 2017, to amend their
11 Complaint in light of both Defendants' legal arguments and the
12 substantial and ongoing changes in immigration policy instituted by the
13 Department of Homeland Security since Plaintiffs' first filed their
14 Complaint on October 17, 2016.
15 5) Amending Plaintiffs' complaint has been a substantially time-consuming
16 endeavor due to the breadth of the discretionary changes that have been
17 made to the implementation of the nation's immigration laws, and the
18 necessity to commission a completely new expert report at short notice to
19 evaluate these changes. Plaintiffs have also taken Defendants' legal
20 arguments in their Partial Motion to Dismiss very seriously, and believe
21 22 23 24 25 26 27 28

1 that they necessitated, in response, a thorough and comprehensive review
2 of Defendants' present and past immigration regulations and policy
3 actions.
4

5 6) Despite having worked on the Amended Complaint throughout the
6 Thanksgiving weekend, Plaintiffs' counsel and expert have determined
7 that they require a very short amount of further time to finish the
8 Amended Complaint and entirely revise one of the expert reports.
9 Accordingly, Plaintiffs request an extension of one week, until December
10 8, 2017. Plaintiffs make this request in good faith and not for purposes of
11 delay.
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15 7) After conferring, the parties respectfully request that Plaintiffs should
16 have until December 8, 2017, to file their Amended Complaint, and
17 Defendants should have until January 26, 2018, to respond to Plaintiffs'
18 Amended Complaint.
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21 Dated: November 28, 2017

22 Respectfully submitted,

23 /s/Julie B. Axelrod

24 Julie B. Axelrod

25 California Bar. No. 250165

26 Immigration Reform Law Institute

27 25 Massachusetts Ave, NW, Suite 335

28 Washington, D.C. 20001

Telephone: (202) 232-5590

Fax: (202) 464-3590

Email: jaxelrod@irli.org

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Admitted *Pro Hac Vice*
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Palm Beach, FL 33480
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James P. Miller
California Bar No. 188266
Law Office of JP Miller Jr.
181 Rea Ave, Suite 101
El Cajon, CA 92020
Telephone: (619) 590-0383

Attorneys for Plaintiffs

JEFFREY H. WOOD
Acting Assistant Attorney General
United States Department of Justice
Environment & Natural Resources Division

/s/ S. Derek Shugert
S. DEREK SHUGERT
Trial Attorney, Natural Resources Section
Post Office Box 7611
Washington, D.C. 20044-7611
Tel: (202) 514-9269
Fax: (202) 305-0506
E-mail: shawn.shugert@usdoj.gov

Attorneys for Federal Defendants

Signature Certification

Pursuant to Section 2(f)(4) of the Electronic Cases Filing Administrative Policies and Procedures Manual, I hereby certify that the content of this document is acceptable to S. Derek Shugert, counsel for Defendants, and that I have obtained Mr. Shugert's authorization to affix his electronic signature to this document.

/s/Julie B. Axelrod
Julie B. Axelrod
Attorney for Plaintiffs